

The court incorporates by reference in this paragraph and adopts as the findings and orders of this court the document set forth below.



**/S/ RUSS KENDIG**

**Russ Kendig**  
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

IN RE:	)	CHAPTER 7
	)	
LAWRENCE WHITTMER, JR. &	)	CASE NOS. 08-61945, 08-61617 &
JENNIFER WHITTMER;	)	08-61618
	)	
LAWRENCE WHITTMER & NIOMA	)	ADV. NOS. 09-6003; 09-6004 &
WHITTMER; &	)	09-6005 (consolidated)
	)	
DENISE WHITTMER;	)	JUDGE RUSS KENDIG
	)	
Debtors.	)	
	)	
	)	
DANIEL M. MCDERMOTT,	)	MEMORANDUM OF OPINION
	)	(NOT FOR PUBLICATION)
Plaintiff,	)	
	)	
v.	)	
	)	
LAWRENCE WHITTMER, JR. &	)	
JENNIFER WHITTMER;	)	
	)	
LAWRENCE WHITTMER; & NIOMA	)	
WHITTMER; &	)	
	)	
DENISE WHITTMER;	)	
	)	
Defendants.	)	
	)	

The Court has jurisdiction over this case pursuant to 28 U.S.C. § 1334 and the general order of reference entered in this district on July 16, 1984. This proceeding is a core proceeding under 28 U.S.C. § 157(b)(2)(A), (I) and (O).

This opinion is not intended for publication or citation. The availability of this opinion, in electronic or printed form, is not the result of a direct submission by the Court.

Plaintiff Daniel M. McDermott, United States Trustee for Region 9 (hereinafter “the Trustee”), filed a complaint under 11 U.S.C. § 727 against Lawrence Whittmer, Jr. and Jennifer Whittmer in case number 08-61945 on January 27, 2009, which initiated adversary proceeding number 09-6003. On the same date, the Trustee filed a complaint under section 727 against Denise Whittmer in case number 08-61617, which initiated adversary proceeding 09-6004. Also on the same date, the Trustee filed a complaint under section 727 against Lawrence Whittmer and Nioma Wittmer in case number 08-61618, which initiated adversary proceeding 09-6005. On July 14, 2009, the Court consolidated the adversary proceedings and ordered that all further filings be made in adversary proceeding number 09-6003.

On October 13, 2009, the Court entered a scheduling and trial order setting the matter for trial and establishing deadlines by which the parties were to file documents in anticipation of trial. Specifically, the Court instructed the parties to file stipulations of facts and documentary evidence, findings of fact and conclusions of law, documents to be introduced into evidence and witness lists by January 20, 2010; the proceeding was scheduled for trial on January 25, 2010.

It is now less than one business day from the start of the trial and only Plaintiff has complied with the order. The scheduling and trial order advised the parties that failure of counsel to comply with the order may result in summary disposition of the case or the invocation of other appropriate action. *See, e.g., National Hockey League v. Metropolitan Hockey Club*, 427 U.S. 639, 641-43 (1976); *Link v. Wabash R. Co.*, 370 U.S. 626 (1962); *Taylor v. Medtronic, Inc.*, 861 F.2d 980, 986 (6<sup>th</sup> Cir. 1988). Defendant-debtors Lawrence Whittmer, Jr.; Jennifer Whittmer; Lawrence Whittmer; Nioma Whittmer, and Denise Whittmer (hereinafter collectively “the Defendant-debtors”) have *totally* failed to comply with the trial order by failing to file the requested documents in anticipation of the trial. Therefore, the appropriate sanction is to grant the relief requested in Plaintiff’s complaints. Plaintiff’s complaints are found to be well taken and Defendant-debtors’ discharges are hereby denied under 11 U.S.C. §§ 727(a)(2), and (a)(4).

An order will be entered simultaneously with this opinion.

# # #

**SERVICE LIST**

United States Trustee  
United States Trustee  
Suite 441  
H.M. Metzenbaum U.S. Courthouse  
201 Superior Ave.  
Cleveland, OH 44114

Dean P Wyman  
United States Trustee  
Suite 441  
H.M. Metzenbaum U.S. Courthouse  
201 Superior Ave.  
Cleveland, OH 44114

Lawrence Wittmer, Jr.  
3078 Point Clear  
Tega Cay, SC 29708

Jennifer Wittmer  
3078 Point Clear  
Tega Cay, SC 29708

Denise Wittmer  
12533 Cleveland Ave.  
Uniontown, OH 44685

Lawrence Wittmer  
12547 Cleveland Ave.  
Uniontown, OH 44685

Nioma Wittmer  
12547 Cleveland Ave  
Uniontown, OH 44685

John A Daily  
Daily & Freeman  
2475 Massillon Rd  
Akron, OH 44312

Thomas F Haskins, Jr  
Haskins Co., L.P.A.  
430 White Pond Drive  
Suite 200  
Akron, OH 44320